

STATE OF NEW YORK
SUPREME COURT

COUNTY OF NEW YORK

MARY GRADY

Plaintiff,

SUMMONS

Index No: _____

v.

ROMAN CATHOLIC DIOCESE OF SCRANTON

Defendant.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the attached Complaint in this action and to serve upon Plaintiff's attorneys a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiffs' attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York.

PLEASE TAKE NOTICE in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

DEFENDANT'S ADDRESS:

ROMAN CATHOLIC DIOCESE OF SCRANTON, 330 Wyoming Ave, Scranton, PA 18503

Dated: August 26, 2019
New York, New York

Respectfully Submitted,


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(NY Admission Pending)

Attorneys for Plaintiffs

STATE OF NEW YORK
SUPREME COURT

COUNTY OF NEW YORK

MARY GRADY

Plaintiff,

v.

ROMAN CATHOLIC DIOCESE OF SCRANTON

Defendant.

VERIFIED COMPLAINT
JURY TRIAL DEMANDED

Index No: _____

Plaintiff, Mary Grady ("Plaintiff"), by and through her attorneys, Thomas LaBarbera Counselors At Law and Andreozzi & Associates, P.C., as and for her Complaint in this matter against defendant Roman Catholic Diocese of Scranton ("Defendant"), hereby alleges as follows:

Nature of the Action

1. Plaintiff brings this action against Defendant pursuant to New York's Child Victims Act ("CVA") (N.Y. C.P.L.R. § 214-g).

Parties

2. Defendant Roman Catholic Diocese of Scranton ("Diocese" or "Scranton Diocese") is a Roman Catholic diocese located at 330 Wyoming Ave, Scranton, PA 18503.

3. The Scranton Diocese serves Lackawanna, Luzerne, Bradford, Susquehanna, Wayne, Tioga, Sullivan, Wyoming, Lycoming, Pike, and Monroe counties, all in the northeastern part of Pennsylvania; of these, Pike, Wayne, Susquehanna, Bradford, and Tioga Counties border New York state.

4. At all relevant times, the Diocese created, oversaw, managed, controlled, directed and operated parishes and/or churches of the Diocese.

5. At all relevant times, the Diocese oversaw, managed, controlled, and directed all priests assigned to work in parishes and/or churches of the Diocese, including Father Robert J. Skotek.

6. Plaintiff Mary Grady is an adult resident of Montana.

Jurisdiction and Venue

7. This Court has personal jurisdiction over the Defendant pursuant to NY CPLR § 302(a), in that the Diocese:

- a. Transacts business within New York or contracts anywhere to supply goods or services in New York. Upon information and belief, such contacts include, but are not limited to, Diocesan parishioners who reside in New York and regularly cross into Pennsylvania to attend Diocesan parishes, events, and donate to the Diocese and its parishes; Diocesan activities, trips, and retreats in New York; Diocesan clergy traveling into New York on Diocesan business; and, the transfer of Diocesan clergy between Pennsylvania and New York.
- b. Committed a tortious act within New York, in that the Diocese allowed known Diocesan clergy abusers, including Father Skotek, to minister in New York and take children to New York where children were sexually abused;
- c. Committed a tortious act without New York causing injury to the Plaintiff in New York, in that the Diocese allowed Skotek, a child abuser, access to Plaintiff including during a trip to New York City where Plaintiff was abused; and,
- d. Owned/owns, used/uses, and/or possessed/possesses real property situated within New York.

8. A small example of the Scranton Diocese's cross-border contacts with New York in recent years include, but are not limited to:

- a. The Diocese's St. Joseph's Parish, located in Matamoros, Pennsylvania, less than a mile from New York state, has a Pastoral Council with 11 members; of those, 4 reside in New York.
- b. The Diocese's St. Ann's Parish in Shohala, Pennsylvania participated in a 2016 charity walk for hunger that began in Eldred, New York, and ended at the Parish in Pennsylvania.

- c. In December 2015, the Diocese's St. Ann's Parish Youth Group from Shohala, Pennsylvania, went to New York City for a Youth Ministry Retreat at St Peter's Cathedral and Radio City Music Hall.
9. The Scranton Diocese's relevant contacts with New York also involve the transfer of abuser clergy between the Diocese and New York, including, but not limited to, the following:
 - a. In 1988, the Scranton Diocese's Bishop determined known-clergy abuser Father Robert J. Brague should be removed to avoid undue publicity. The Chancellor of the Scranton Diocese sent a letter to the Archdiocese of New York thanking the Archdiocese for helping Brague secure an assignment in New York.
 - b. In 1990, Scranton Diocese priest-abuser Austin E. Flanagan was admitted to St. Vincent Hospital in Harrison, New York shortly after an accusation he abused two Diocese parishioners. A doctor from St. Vincent Hospital wrote to the Diocese's Bishop regarding Flanagan's treatment.
 - c. In 1995, the Scranton Diocese learned priest-abuser Father Mark T. Rossetti was accused of sexually abusing a boy. The Scranton Diocese's Review Board recommended against Rossetti's continued service in Scranton. Despite that, in 1997, the Diocese's Bishop wrote the Archdiocese of New York and asked that Rossetti work in the Archdiocese, which Rossetti did temporarily.
 - d. In 1996, the Scranton Diocese learned priest-abuser Father Albert Libertore took a young male to New York to consume alcohol. Father Libertore was later arrested in 2004 for sexually assaulting a Scranton Diocese parishioner in New York by the New York City Police.
 - e. In 1998, Father Virgil Tetherow of a New York religious order, then residing in New York, contacted Scranton Diocese's Bishop to inquire about setting up a religious community in the Diocese. Tetherow moved from New York to Pennsylvania and was incardinated into the Diocese. In 2005 he pled guilty to child pornography offenses in Pennsylvania.
10. This Court, as a court of general jurisdiction, has subject matter jurisdiction over this action.
11. Venue in the County of New York is proper pursuant to NY CPLR § 503.

Facts

Sexual Abuse in the Scranton Diocese and Father Thomas Skotek

12. As is now well-known, child sex abuse by Catholic priests was widespread, resulting in major sex abuse scandals involving Catholic Dioceses around the world, including those in Boston, Los Angeles, Philadelphia, and many other cities.

13. For many years, however, the scope of the Catholic child sex-abuse epidemic was unknown.

14. Thanks to an investigation in 2002 by the Boston Globe's "Spotlight" team, made more famous by the 2015 film *Spotlight*, the public is now aware that thousands of children have been sexually abused by Catholic priests, and that many of those predator priests were protected by Catholic officials.

15. The Scranton Diocese was no different.

16. Throughout the history of the Scranton Diocese, at least 59 clerics associated with the Diocese have been accused of sexual misconduct and/or abuse.

17. The Scranton Diocese has thus been aware of the risk of sexual abuse by its clerics for decades, well before the sexual abuse of the Plaintiff, which is described herein.

18. Sexual abuse by Diocesan clergy was a known, preventable hazard, which the Diocese failed to respond to.

19. One of the Diocese's worst priest-offenders, and the Plaintiff's abuser, was Scranton Diocesan priest Father Thomas Skotek ("Skotek").

20. Skotek was ordained as a Scranton Diocesan priest in 1963.

21. Thereafter, Skotek served in numerous Scranton Diocese parishes, including:

- a. 07/1963 - 09/1963: St. Patrick in Milford, PA;
- b. 09/1963 - 11/1967: SS Peter and Paul, Plains
- c. 11/1967 - 06/1969: St. Joseph, Wyoming

- d. 06/1969 - 09/1972: St. Mary of the Mount, Mount, Pocono
 - e. 09/1972 - 05/1977: St. Hedwig, Kingston
 - f. 05/1977 - 01/1980: Lady of Mount Carmel, Lake Silkworth
 - g. 01/1980 - 03/1985: St. Casimir, Freeland
 - h. 03/1985 - 10/1986: St. Stanislaus, Hazleton
 - i. 12/13/1986: Resigned from St. Stanislaus, Hazleton
 - j. 1/1987 - 06/1999: St. Aloysius, Wilkes -Bane
 - k. 06/1999 - 04/2002: St. Mary and Ascension, Mocanaqua
22. In 2002, Skotek was removed from ministry.
23. Skotek began sexually abusing children early in his tenure as a Diocese priest, before Plaintiff was abused.
24. The Diocese had actual or constructive knowledge of Skotek's abuse of children prior to Plaintiff's abuse.
25. Upon information and belief, multiple other Diocesan officials and/or agents knew Skotek was engaged in inappropriate behavior children, before, during, and after Plaintiff's abuse.
26. From approximately 1969 – 1972, Skotek sexually abused the Plaintiff hundreds of times.
27. Plaintiff's sexual abuse took place in Pennsylvania, New Jersey, and in New York.
28. Skotek's abused Plaintiff at a motel in New York, and on many occasions in his car after driving Plaintiff into New York from Pennsylvania.
29. Upon information and belief, the Diocese knew Skotek took Plaintiff and/or other young parishioners to New York.

30. Like other Catholic dioceses, the Scranton Diocese transferred Skotek to protect Skotek and the Diocese instead of the children of the Diocese, including the Plaintiff.

31. At no time did the Scranton Diocese make Plaintiff or her family aware of Skotek's history, or of the known risk of abuse posed by him and other Catholic clergy.

32. Skotek used his position with the Diocese to sexually abuse the Plaintiff.

33. The Diocese held Skotek out to the Plaintiff and his family as the Diocese's agent, who had been appropriately vetted, screened, and approved.

34. The Plaintiff and his parents reasonably relied on the acts and representations of the Diocese and its agents regarding Skotek.

35. The Plaintiff and his parents implicitly trusted Skotek due to Skotek's relationship to the Diocese.

36. The Scranton Diocese's actions and omissions herein were willful, wanton, and/or reckless.

37. As described, Skotek sexually abused the Plaintiff, in addition to numerous other children.

38. As a direct result of the Defendant's conduct described herein, Plaintiff suffered and will continue to suffer as follows:

- a. Severe and permanent emotional distress, including physical manifestations of emotional distress;
- b. Deprivation of the full enjoyment of life;
- c. Expenses for medical and psychological treatment, therapy, and counseling; and,
- d. Loss of income and/or loss of earning capacity.

Causes of Action

First Cause of Action

Negligent Hiring, Negligent Retention, Negligent Supervision

39. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

40. Defendant owed a duty of care to all minor persons, including Plaintiff, who were likely to come in contact with Skotek in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant.

41. Defendant owed a duty of care to all minor persons, including Plaintiff, to ensure Skotek did not use his position to injure minors by sexual assault, abuse, and/or sexual contact.

42. Defendant had an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

43. Defendant negligently hired, retained, and supervised Skotek though they knew or should have known that Skotek posed a threat of harm to minors.

44. Defendant knew or should have known of Skotek's propensity for sexual assault, abuse, and/or sexual contact with minors, the same conduct which caused Plaintiff's injuries.

45. Defendant knew or should have known of Skotek's propensity for sexual assault, abuse, and/or sexual contact with minors prior to, or at the time of, Plaintiff's injuries.

46. The Plaintiff's sexual abuse by Skotek was foreseeable, *i.e.*, Defendant were on notice of prior similar incidents and Plaintiff's sexual abuse was the proximate result of Defendant's negligent hiring, retention, and supervision of Skotek.

47. Skotek's acts described herein were undertaken, and/or enabled by, and/or during the course, and/or within the scope of Skotek's employment, appointment, assignment, and/or agency with Defendant.

48. Defendant took no precautions to prevent Plaintiff's injuries.
49. Defendant failed to take reasonable precautions to prevent Plaintiff's injuries.
50. Defendant gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others.
51. Defendant failed adequately to supervise the activities of Skotek.
52. Defendant failed to protect against or warn the Plaintiff or his family of the known risk of priest abuse within the Diocese.
53. Defendant permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control.
54. Defendant allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.
55. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.
56. As a direct and proximate result of Defendant's actions and omissions, Plaintiff suffered and will continue to suffer injuries, as described herein.
57. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

Second Cause of Action
Negligence/Gross Negligence/Recklessness

58. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

59. Defendant owed Plaintiff, a minor at the relevant time of abuse, a duty to protect him from Skotek and the consequential damages, both prior to and/or subsequent to Skotek's misconduct.

60. Defendant knew, should have known, or were negligent in not knowing, of Skotek's propensity for sexual assault, abuse, and/or sexual contact with minors and that Skotek posed a threat of sexual abuse to children.

61. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in its disregard for the rights and safety of Plaintiff.

62. As a direct and proximate result of Defendant's actions and omissions, Plaintiff suffered and will continue to suffer injuries, as described herein.

63. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Third Cause of Action
Breach of Non-Delegable Duty**

64. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

65. Plaintiff, as a vulnerable minor, was in the care and under the supervision of the Defendant.

66. There existed a non-delegable duty of trust and protection between Plaintiff and the Defendant.

67. Defendant was in the best position to prevent Plaintiff's abuse by Diocesan priests, including Skotek, who was under the supervision, employ, direction and/or control of the Defendant.

68. Defendant breached its non-delegable duty to Plaintiff.

69. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

70. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Fourth Cause of Action
Breach of Fiduciary Duty**

71. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

72. At all times relevant, there existed a fiduciary relationship of trust, confidence, and reliance between Defendant and Plaintiff that required the Defendant to act in Plaintiff's best interests.

73. Defendant breached its fiduciary relationship with Plaintiff.

74. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in its disregard for the rights and safety of Plaintiff.

75. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Fifth Cause of Action
Negligent Infliction of Emotional Distress**

76. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

77. Plaintiff, as a vulnerable minor, was in the care and under the supervision of the Defendant, and thus Defendant owed Plaintiff a duty of care.

78. By reason of the foregoing, Defendant breached that duty of care.

79. Defendant unreasonably endangered the Plaintiff's physical safety, and/or caused the Plaintiff to fear for his own safety.

80. As a direct result of Defendant's conduct heretofore described, Plaintiff suffered severe emotional harm and distress, as described herein.

81. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

82. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Sixth Causes of Action
Intentional Infliction of Emotional Distress**

83. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

84. Defendant's conduct, as heretofore described, was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

85. Defendant intended to cause, or disregarded a substantial probability of causing, severe emotional distress in Plaintiff.

86. Defendant willful, wanton, and/or reckless conduct caused the Plaintiff severe emotional distress.

87. As a direct result of Defendant's conduct heretofore described, Plaintiff suffered severe emotional harm and distress, as described herein.

88. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Seventh Cause of Action
Breach of Duty in Loco Parentis**

89. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint.

90. At all times relevant, the Plaintiff was entrusted to the control of the Defendant.

91. At all relevant times, Defendant was acting in loco parentis with respect to Plaintiff.

92. The Defendant owed a duty to Plaintiff, as a child entrusted to them, to act in loco parentis and prevent foreseeable injuries to him.

93. Defendant's conduct, as heretofore described, violated its duties in loco parentis.

94. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in its disregard for the rights and safety of Plaintiff.

95. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Eighth Cause of Action
Nuisance**

96. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint.

97. Defendant continues to conspire and engage and/or has conspired and engaged in efforts to: 1) conceal sexual abuse committed by Defendant's agents against children; and/or 2) protect Defendant's agents from prosecution for their sexual abuse of children; 3) conceal from

the public the known dangers posed by its agents; and/or 4) allow known child abusers to live freely in the community unknown to the public.

98. The conduct, deception and concealment by Defendant has knowingly and/or recklessly created and/or maintained a condition which unreasonably endangers the safety and health of a considerable number of persons, including, but not limited to, children and residents in the Diocese of Scranton and other members of the general public.

99. Defendant's failure to report multiple allegations of sexual assault and abuse of children to proper authorities knowingly and/or recklessly endangered the safety and health of a considerable number of persons by allowing child molesters to avoid prosecution and remain living freely in unsuspecting communities.

100. These child molesters, known to the Diocese but not to the public, pose(d) a threat of additional abuse to a considerable number of members of the public and Plaintiff.

101. Defendant's deception and concealment of sexually abusive clerics was and continues to be done with full awareness and conscious disregard of the injurious conditions created and the corresponding risk to the public and individuals in the communities where credibly accused molesters are present, including, but not limited to Plaintiff.

102. It offends the public morals in that the general public and Plaintiff cannot trust Defendant to warn parents of the presence of the current and/or former credibly accused molesters, nor to identify their current and/or former credibly accused molesters, nor to disclose said credibly accused molesters' assignment histories, nor to disclose their patterns of conduct in grooming and sexually assaulting children, all of which create an impairment of the safety and welfare of children in the neighborhoods where Defendant conducted, and continues to conduct, its business.

103. The unreasonable, knowing and reckless conduct, deception and concealment by Defendant was and continues to be especially injurious to Plaintiff's health as Plaintiff was sexually abused by Defendant's agent.

104. The unreasonable, knowing and reckless conduct, nuisance, deception and concealment by Defendant was especially injurious to Plaintiff's health and wellbeing.

105. Plaintiff suffered and continues to suffer particular and peculiar harm as a result of the Diocese's knowing and reckless concealment of clerics credibly accused of sexually molesting minors.

106. Defendant acted unreasonably by knowingly and/or recklessly creating or maintaining a condition which endangered the safety or health of a considerable number of persons with a conscious disregard for Plaintiff's rights.

107. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

JURY DEMAND

108. Plaintiff demand a trial by jury on all issues so triable.

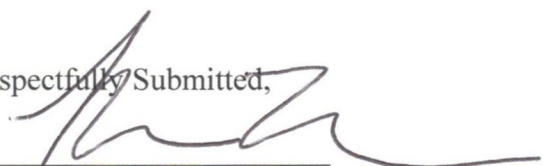
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WHEREFORE Plaintiff demands judgment against the Defendant on each cause of action as follows:

- a) Awarding compensatory damages in an amount to be proved at trial, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- b) Awarding punitive damages to the extent permitted by law;
- c) Awarding prejudgment interest to the extent permitted by law;
- d) Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law; and
- e) Awarding such other and further relief as to this Court may seem just and proper.

Dated: August 26, 2019
New York, New York

Respectfully Submitted,



Kathleen Thomas, Esq.

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(NY Admission Pending)

Attorneys for Plaintiffs


ATTORNEY'S VERIFICATION

KATHLEEN R. THOMAS, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **THOMAS LABARBERA COUNSELORS AT LAW, PC**, attorneys of record for Plaintiffs. I have read the annexed **SUMMONS AND COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because plaintiff in this matter are not presently in the county wherein I maintain my offices.

Dated: New York, New York
August 26, 2019


Kathleen R. Thomas, Esq.